

REMARKS

Status of the claims

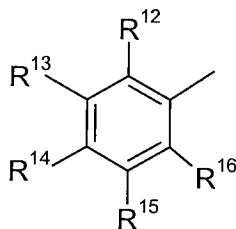
Claims 22, 24, 33, and 34, are pending in the application. Claims 1-21, 23, 25-32 and 35-39 have been cancelled. Claims 22, 24 and 33 are amended herein. No new matter has been added with the amendments. As such, entry thereof is respectfully requested.

Withdrawn claims 35-39

The Examiner has refused to rejoin claims 35-39 with the assertion that, for rejoinder, claims 35-39 must be both dependent on an allowable product claim and free from all rejections under 35 U.S.C. §112. Applicants respectfully note that the Examiner is legally and procedurally incorrect in her position. The USPTO procedures on this matter are clear and for rejoinder of a withdrawn method claim, the method claim need only depend from a product claim that is allowable over the prior art. Thus, if claim 22 is found free of any prior art, any claims drawn to methods of making or using the compounds of claim 22, must be rejoined and examined. However, for the sake of facilitating the allowance of claims 22, 24, 33 and 34, claims 35-39 have been cancelled.

Rejection under 35 U.S.C. §112, 1st paragraph, lack of written description

Claims 22-23 have been rejected under 35 U.S.C. §112, 1st paragraph for allegedly lacking support for defining "A" as presented in amended claims 22 and 23. Claim 22 has been amended to recite that



is a ring system, which is selected from the group consisting of 2-chloro-phenyl, 3-trifluoromethyl-4-chloro-phenyl, 3,5-dichloro-phenyl, 3,5-difluoro-phenyl, and 3,5-bis-trifluoromethyl-phenyl. Each of the of the ring groups recited in claim 22, as well as each of

the recited compounds of claim 33, are fully supported by the exemplified compounds of Example 18 of the specification. As such, the invention of claim 22 is fully supported by the specification as originally filed and withdrawal of the rejection is respectfully requested.

Rejections under 35 U.S.C. §§102 and 103

The Examiner states on page 3 of the Office Action that the claims must be amended to be placed in original form to address the rejection under 35 U.S.C. §112, 1st paragraph, and that upon such amendment the prior art rejections as listed on page 3 would be reinstated. Applicants traverse these rejections and withdrawal thereof is respectfully requested. As discussed above, the subject matter of claim 22 is fully and completely supported by the originally filed disclosure. As such, no new matter is present in amended claim 22. The prior art rejections of page 3 are therefore rendered moot.

The claims have been further rejected as being obvious under 35 U.S.C. §103 and for obviousness-type double patenting over US 6,696,475. Applicants traverse these rejections and withdrawal thereof is respectfully requested. Claim 22 has been amended to define R4 as being either -CH=CH-COOR^b, or -CH=CH-CO-NR^bR^c. Both of these substituent groups contain the common core structure of "CH=CH-CO-". US '475 fails teach or suggest any compounds having a substituent in the R4 position that contains "CH=CH-CO-". As such, the instant invention, as claimed, is not obvious over the disclosure of US '475. Withdrawal of the rejections for obviousness and for obviousness-type double patenting is therefore respectfully requested.

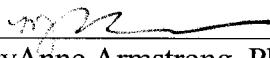
In view of the above amendments and Remarks, Applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact MaryAnne Armstrong, Ph.D., Reg. No. 40,069 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: September 4, 2009

Respectfully submitted,

By 
MaryAnne Armstrong, Ph.D.
Registration No.: 40,069
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant